



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB5797

Introduced 07/19/06, by Rep. Brent Hassert

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/2-8.5 new	
720 ILCS 5/10-2	from Ch. 38, par. 10-2
720 ILCS 5/12-2	from Ch. 38, par. 12-2
720 ILCS 5/12-4	from Ch. 38, par. 12-4
720 ILCS 5/18-5	
720 ILCS 5/20-1.1	from Ch. 38, par. 20-1.1

Amends the Criminal Code of 1961. Provides that kidnaping, assault, battery, robbery, or arson committed by a gang member is enhanced to an aggravated kidnaping, aggravated assault, aggravated battery, aggravated robbery, or aggravated arson.

LRB094 21047 RLC 59374 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Sections 10-2, 12-2, 12-4, 18-5, and 20-1.1 and by adding  
6 Section 2-8.5 as follows:

7 (720 ILCS 5/2-8.5 new)

8 Sec. 2-8.5. Gang member. "Gang member" has the meaning  
9 ascribed to it in Section 10 of the Illinois Streetgang  
10 Terrorism Omnibus Prevention Act.

11 (720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

12 Sec. 10-2. Aggravated kidnaping.

13 (a) A kidnaper within the definition of paragraph (a) of  
14 Section 10-1 is guilty of the offense of aggravated kidnaping  
15 when he:

16 (1) Kidnaps for the purpose of obtaining ransom from  
17 the person kidnaped or from any other person, or

18 (2) Takes as his victim a child under the age of 13  
19 years, or a severely or profoundly mentally retarded  
20 person, or

21 (3) Inflicts great bodily harm, other than by the  
22 discharge of a firearm, or commits another felony upon his  
23 victim, or

24 (4) Wears a hood, robe or mask or conceals his  
25 identity, or

26 (5) Commits the offense of kidnaping while armed with a  
27 dangerous weapon, other than a firearm, as defined in  
28 Section 33A-1 of the "Criminal Code of 1961", or

29 (6) Commits the offense of kidnaping while armed with a  
30 firearm, or

31 (7) During the commission of the offense of kidnaping,

1 personally discharged a firearm, or

2 (8) During the commission of the offense of kidnaping,  
3 personally discharged a firearm that proximately caused  
4 great bodily harm, permanent disability, permanent  
5 disfigurement, or death to another person, or

6 (9) Is a gang member.

7 As used in this Section, "ransom" includes money, benefit  
8 or other valuable thing or concession.

9 (b) Sentence. Aggravated kidnaping in violation of  
10 paragraph (1), (2), (3), (4), ~~or~~ (5), or (9) of subsection (a)  
11 is a Class X felony. A violation of subsection (a)(6) is a  
12 Class X felony for which 15 years shall be added to the term of  
13 imprisonment imposed by the court. A violation of subsection  
14 (a)(7) is a Class X felony for which 20 years shall be added to  
15 the term of imprisonment imposed by the court. A violation of  
16 subsection (a)(8) is a Class X felony for which 25 years or up  
17 to a term of natural life shall be added to the term of  
18 imprisonment imposed by the court.

19 A person who is convicted of a second or subsequent offense  
20 of aggravated kidnaping shall be sentenced to a term of natural  
21 life imprisonment; provided, however, that a sentence of  
22 natural life imprisonment shall not be imposed under this  
23 Section unless the second or subsequent offense was committed  
24 after conviction on the first offense.

25 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02.)

26 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

27 Sec. 12-2. Aggravated assault.

28 (a) A person commits an aggravated assault, when, in  
29 committing an assault, he:

30 (1) Uses a deadly weapon or any device manufactured and  
31 designed to be substantially similar in appearance to a  
32 firearm, other than by discharging a firearm in the  
33 direction of another person, a peace officer, a person  
34 summoned or directed by a peace officer, a correctional  
35 officer or a fireman or in the direction of a vehicle

1 occupied by another person, a peace officer, a person  
2 summoned or directed by a peace officer, a correctional  
3 officer or a fireman while the officer or fireman is  
4 engaged in the execution of any of his official duties, or  
5 to prevent the officer or fireman from performing his  
6 official duties, or in retaliation for the officer or  
7 fireman performing his official duties;

8 (2) Is hooded, robed or masked in such manner as to  
9 conceal his identity or any device manufactured and  
10 designed to be substantially similar in appearance to a  
11 firearm;

12 (3) Knows the individual assaulted to be a teacher or  
13 other person employed in any school and such teacher or  
14 other employee is upon the grounds of a school or grounds  
15 adjacent thereto, or is in any part of a building used for  
16 school purposes;

17 (4) Knows the individual assaulted to be a supervisor,  
18 director, instructor or other person employed in any park  
19 district and such supervisor, director, instructor or  
20 other employee is upon the grounds of the park or grounds  
21 adjacent thereto, or is in any part of a building used for  
22 park purposes;

23 (5) Knows the individual assaulted to be a caseworker,  
24 investigator, or other person employed by the Department of  
25 Healthcare and Family Services (formerly State Department  
26 of Public Aid), a County Department of Public Aid, or the  
27 Department of Human Services (acting as successor to the  
28 Illinois Department of Public Aid under the Department of  
29 Human Services Act) and such caseworker, investigator, or  
30 other person is upon the grounds of a public aid office or  
31 grounds adjacent thereto, or is in any part of a building  
32 used for public aid purposes, or upon the grounds of a home  
33 of a public aid applicant, recipient or any other person  
34 being interviewed or investigated in the employees'  
35 discharge of his duties, or on grounds adjacent thereto, or  
36 is in any part of a building in which the applicant,

1 recipient, or other such person resides or is located;

2 (6) Knows the individual assaulted to be a peace  
3 officer, or a community policing volunteer, or a fireman  
4 while the officer or fireman is engaged in the execution of  
5 any of his official duties, or to prevent the officer,  
6 community policing volunteer, or fireman from performing  
7 his official duties, or in retaliation for the officer,  
8 community policing volunteer, or fireman performing his  
9 official duties, and the assault is committed other than by  
10 the discharge of a firearm in the direction of the officer  
11 or fireman or in the direction of a vehicle occupied by the  
12 officer or fireman;

13 (7) Knows the individual assaulted to be an emergency  
14 medical technician - ambulance, emergency medical  
15 technician - intermediate, emergency medical technician -  
16 paramedic, ambulance driver or other medical assistance or  
17 first aid personnel engaged in the execution of any of his  
18 official duties, or to prevent the emergency medical  
19 technician - ambulance, emergency medical technician -  
20 intermediate, emergency medical technician - paramedic,  
21 ambulance driver, or other medical assistance or first aid  
22 personnel from performing his official duties, or in  
23 retaliation for the emergency medical technician -  
24 ambulance, emergency medical technician - intermediate,  
25 emergency medical technician - paramedic, ambulance  
26 driver, or other medical assistance or first aid personnel  
27 performing his official duties;

28 (8) Knows the individual assaulted to be the driver,  
29 operator, employee or passenger of any transportation  
30 facility or system engaged in the business of  
31 transportation of the public for hire and the individual  
32 assaulted is then performing in such capacity or then using  
33 such public transportation as a passenger or using any area  
34 of any description designated by the transportation  
35 facility or system as a vehicle boarding, departure, or  
36 transfer location;

1           (9) Or the individual assaulted is on or about a public  
2 way, public property, or public place of accommodation or  
3 amusement;

4           (9.5) Is, or the individual assaulted is, in or about a  
5 publicly or privately owned sports or entertainment arena,  
6 stadium, community or convention hall, special event  
7 center, amusement facility, or a special event center in a  
8 public park during any 24-hour period when a professional  
9 sporting event, National Collegiate Athletic Association  
10 (NCAA)-sanctioned sporting event, United States Olympic  
11 Committee-sanctioned sporting event, or International  
12 Olympic Committee-sanctioned sporting event is taking  
13 place in this venue;

14           (10) Knows the individual assaulted to be an employee  
15 of the State of Illinois, a municipal corporation therein  
16 or a political subdivision thereof, engaged in the  
17 performance of his authorized duties as such employee;

18           (11) Knowingly and without legal justification,  
19 commits an assault on a physically handicapped person;

20           (12) Knowingly and without legal justification,  
21 commits an assault on a person 60 years of age or older;

22           (13) Discharges a firearm;

23           (14) Knows the individual assaulted to be a  
24 correctional officer, while the officer is engaged in the  
25 execution of any of his or her official duties, or to  
26 prevent the officer from performing his or her official  
27 duties, or in retaliation for the officer performing his or  
28 her official duties;

29           (15) Knows the individual assaulted to be a  
30 correctional employee or an employee of the Department of  
31 Human Services supervising or controlling sexually  
32 dangerous persons or sexually violent persons, while the  
33 employee is engaged in the execution of any of his or her  
34 official duties, or to prevent the employee from performing  
35 his or her official duties, or in retaliation for the  
36 employee performing his or her official duties, and the

1 assault is committed other than by the discharge of a  
2 firearm in the direction of the employee or in the  
3 direction of a vehicle occupied by the employee;

4 (16) Knows the individual assaulted to be an employee  
5 of a police or sheriff's department engaged in the  
6 performance of his or her official duties as such employee;  
7 ~~or~~

8 (17) Knows the individual assaulted to be a sports  
9 official or coach at any level of competition and the act  
10 causing the assault to the sports official or coach  
11 occurred within an athletic facility or an indoor or  
12 outdoor playing field or within the immediate vicinity of  
13 the athletic facility or an indoor or outdoor playing field  
14 at which the sports official or coach was an active  
15 participant in the athletic contest held at the athletic  
16 facility. For the purposes of this paragraph (17), "sports  
17 official" means a person at an athletic contest who  
18 enforces the rules of the contest, such as an umpire or  
19 referee; and "coach" means a person recognized as a coach  
20 by the sanctioning authority that conducted the athletic  
21 contest; or

22 (18) Knows the individual assaulted to be an emergency  
23 management worker, while the emergency management worker  
24 is engaged in the execution of any of his or her official  
25 duties, or to prevent the emergency management worker from  
26 performing his or her official duties, or in retaliation  
27 for the emergency management worker performing his or her  
28 official duties, and the assault is committed other than by  
29 the discharge of a firearm in the direction of the  
30 emergency management worker or in the direction of a  
31 vehicle occupied by the emergency management worker.

32 (a-5) A person commits an aggravated assault when he or she  
33 knowingly and without lawful justification shines or flashes a  
34 laser gunsight or other laser device that is attached or  
35 affixed to a firearm, or used in concert with a firearm, so  
36 that the laser beam strikes near or in the immediate vicinity

1 of any person.

2 (a-6) A person commits an aggravated assault when he or she  
3 commits an assault and at the time of the commission of the  
4 assault was a gang member.

5 (b) Sentence.

6 Aggravated assault as defined in paragraphs (1) through (5)  
7 and (8) through (12) and (17) of subsection (a) of this Section  
8 is a Class A misdemeanor. Aggravated assault as defined in  
9 paragraphs (13), (14), and (15) of subsection (a) of this  
10 Section and as defined in subsections ~~subsection~~ (a-5) and  
11 (a-6) of this Section is a Class 4 felony. Aggravated assault  
12 as defined in paragraphs (6), (7), (16), and (18) of subsection  
13 (a) of this Section is a Class A misdemeanor if a firearm is  
14 not used in the commission of the assault. Aggravated assault  
15 as defined in paragraphs (6), (7), (16), and (18) of subsection  
16 (a) of this Section is a Class 4 felony if a firearm is used in  
17 the commission of the assault.

18 (Source: P.A. 93-692, eff. 1-1-05; 94-243, eff. 1-1-06; 94-482,  
19 eff. 1-1-06; revised 12-15-05.)

20 (720 ILCS 5/12-4) (from Ch. 38, par. 12-4)

21 Sec. 12-4. Aggravated Battery.

22 (a) A person who, in committing a battery, intentionally or  
23 knowingly causes great bodily harm, or permanent disability or  
24 disfigurement commits aggravated battery.

25 (b) In committing a battery, a person commits aggravated  
26 battery if he or she:

27 (1) Uses a deadly weapon other than by the discharge of  
28 a firearm;

29 (2) Is hooded, robed or masked, in such manner as to  
30 conceal his identity;

31 (3) Knows the individual harmed to be a teacher or  
32 other person employed in any school and such teacher or  
33 other employee is upon the grounds of a school or grounds  
34 adjacent thereto, or is in any part of a building used for  
35 school purposes;

1 (4) (Blank);

2 (5) (Blank);

3 (6) Knows the individual harmed to be a community  
4 policing volunteer while such volunteer is engaged in the  
5 execution of any official duties, or to prevent the  
6 volunteer from performing official duties, or in  
7 retaliation for the volunteer performing official duties,  
8 and the battery is committed other than by the discharge of  
9 a firearm;

10 (7) Knows the individual harmed to be an emergency  
11 medical technician - ambulance, emergency medical  
12 technician - intermediate, emergency medical technician -  
13 paramedic, ambulance driver, other medical assistance,  
14 first aid personnel, or hospital personnel engaged in the  
15 performance of any of his or her official duties, or to  
16 prevent the emergency medical technician - ambulance,  
17 emergency medical technician - intermediate, emergency  
18 medical technician - paramedic, ambulance driver, other  
19 medical assistance, first aid personnel, or hospital  
20 personnel from performing official duties, or in  
21 retaliation for performing official duties;

22 (8) Is, or the person battered is, on or about a public  
23 way, public property or public place of accommodation or  
24 amusement;

25 (8.5) Is, or the person battered is, on a publicly or  
26 privately owned sports or entertainment arena, stadium,  
27 community or convention hall, special event center,  
28 amusement facility, or a special event center in a public  
29 park during any 24-hour period when a professional sporting  
30 event, National Collegiate Athletic Association  
31 (NCAA)-sanctioned sporting event, United States Olympic  
32 Committee-sanctioned sporting event, or International  
33 Olympic Committee-sanctioned sporting event is taking  
34 place in this venue;

35 (9) Knows the individual harmed to be the driver,  
36 operator, employee or passenger of any transportation

1 facility or system engaged in the business of  
2 transportation of the public for hire and the individual  
3 assaulted is then performing in such capacity or then using  
4 such public transportation as a passenger or using any area  
5 of any description designated by the transportation  
6 facility or system as a vehicle boarding, departure, or  
7 transfer location;

8 (10) Knows the individual harmed to be an individual of  
9 60 years of age or older;

10 (11) Knows the individual harmed is pregnant;

11 (12) Knows the individual harmed to be a judge whom the  
12 person intended to harm as a result of the judge's  
13 performance of his or her official duties as a judge;

14 (13) (Blank);

15 (14) Knows the individual harmed to be a person who is  
16 physically handicapped;

17 (15) Knowingly and without legal justification and by  
18 any means causes bodily harm to a merchant who detains the  
19 person for an alleged commission of retail theft under  
20 Section 16A-5 of this Code. In this item (15), "merchant"  
21 has the meaning ascribed to it in Section 16A-2.4 of this  
22 Code;

23 (16) Is, or the person battered is, in any building or  
24 other structure used to provide shelter or other services  
25 to victims or to the dependent children of victims of  
26 domestic violence pursuant to the Illinois Domestic  
27 Violence Act of 1986 or the Domestic Violence Shelters Act,  
28 or the person battered is within 500 feet of such a  
29 building or other structure while going to or from such a  
30 building or other structure. "Domestic violence" has the  
31 meaning ascribed to it in Section 103 of the Illinois  
32 Domestic Violence Act of 1986. "Building or other structure  
33 used to provide shelter" has the meaning ascribed to  
34 "shelter" in Section 1 of the Domestic Violence Shelters  
35 Act;

36 (17) (Blank); ~~or~~

1           (18) Knows the individual harmed to be an officer or  
2           employee of the State of Illinois, a unit of local  
3           government, or school district engaged in the performance  
4           of his or her authorized duties as such officer or  
5           employee; or.

6           (19) ~~(18)~~ Knows the individual harmed to be an  
7           emergency management worker engaged in the performance of  
8           any of his or her official duties, or to prevent the  
9           emergency management worker from performing official  
10          duties, or in retaliation for the emergency management  
11          worker performing official duties.

12          For the purpose of paragraph (14) of subsection (b) of this  
13          Section, a physically handicapped person is a person who  
14          suffers from a permanent and disabling physical  
15          characteristic, resulting from disease, injury, functional  
16          disorder or congenital condition.

17          (c) A person who administers to an individual or causes him  
18          to take, without his consent or by threat or deception, and for  
19          other than medical purposes, any intoxicating, poisonous,  
20          stupefying, narcotic, anesthetic, or controlled substance  
21          commits aggravated battery.

22          (d) A person who knowingly gives to another person any food  
23          that contains any substance or object that is intended to cause  
24          physical injury if eaten, commits aggravated battery.

25          (d-3) A person commits aggravated battery when he or she  
26          knowingly and without lawful justification shines or flashes a  
27          laser gunsight or other laser device that is attached or  
28          affixed to a firearm, or used in concert with a firearm, so  
29          that the laser beam strikes upon or against the person of  
30          another.

31          (d-5) An inmate of a penal institution or a sexually  
32          dangerous person or a sexually violent person in the custody of  
33          the Department of Human Services who causes or attempts to  
34          cause a correctional employee of the penal institution or an  
35          employee of the Department of Human Services to come into  
36          contact with blood, seminal fluid, urine, or feces, by

1 throwing, tossing, or expelling that fluid or material commits  
2 aggravated battery. For purposes of this subsection (d-5),  
3 "correctional employee" means a person who is employed by a  
4 penal institution.

5 (d-6) A person commits aggravated battery when he or she  
6 commits battery and at the time of the commission of the  
7 offense was a gang member.

8 (e) Sentence.

9 (1) Except as otherwise provided in paragraphs (2) and  
10 (3), aggravated battery is a Class 3 felony.

11 (2) Aggravated battery that does not cause great bodily  
12 harm or permanent disability or disfigurement is a Class 2  
13 felony when the person knows the individual harmed to be a  
14 peace officer, a community policing volunteer, a  
15 correctional institution employee, an employee of the  
16 Department of Human Services supervising or controlling  
17 sexually dangerous persons or sexually violent persons, or  
18 a fireman while such officer, volunteer, employee, or  
19 fireman is engaged in the execution of any official duties  
20 including arrest or attempted arrest, or to prevent the  
21 officer, volunteer, employee, or fireman from performing  
22 official duties, or in retaliation for the officer,  
23 volunteer, employee, or fireman performing official  
24 duties, and the battery is committed other than by the  
25 discharge of a firearm.

26 (3) Aggravated battery that causes great bodily harm or  
27 permanent disability or disfigurement in violation of  
28 subsection (a) is a Class 1 felony when the person knows  
29 the individual harmed to be a peace officer, a community  
30 policing volunteer, a correctional institution employee,  
31 an employee of the Department of Human Services supervising  
32 or controlling sexually dangerous persons or sexually  
33 violent persons, or a fireman while such officer,  
34 volunteer, employee, or fireman is engaged in the execution  
35 of any official duties including arrest or attempted  
36 arrest, or to prevent the officer, volunteer, employee, or

1 fireman from performing official duties, or in retaliation  
2 for the officer, volunteer, employee, or fireman  
3 performing official duties, and the battery is committed  
4 other than by the discharge of a firearm.

5 (Source: P.A. 93-83, eff. 7-2-03; 94-243, eff. 1-1-06; 94-327,  
6 eff. 1-1-06; 94-333, eff. 7-26-05; 94-363, eff. 7-29-05;  
7 94-482, eff. 1-1-06; revised 8-19-05.)

8 (720 ILCS 5/18-5)

9 Sec. 18-5. Aggravated robbery.

10 (a) A person commits aggravated robbery when he or she  
11 takes property from the person or presence of another by the  
12 use of force or by threatening the imminent use of force while  
13 indicating verbally or by his or her actions to the victim that  
14 he or she is presently armed with a firearm or other dangerous  
15 weapon, including a knife, club, ax, or bludgeon. This offense  
16 shall be applicable even though it is later determined that he  
17 or she had no firearm or other dangerous weapon, including a  
18 knife, club, ax, or bludgeon, in his or her possession when he  
19 or she committed the robbery.

20 (a-5) A person commits aggravated robbery when he or she  
21 takes property from the person or presence of another by  
22 delivering (by injection, inhalation, ingestion, transfer of  
23 possession, or any other means) to the victim without his or  
24 her consent, or by threat or deception, and for other than  
25 medical purposes, any controlled substance.

26 (a-6) A person commits aggravated robbery when he or she  
27 commits a robbery and at the time of the commission of the  
28 offense was a gang member.

29 (b) Sentence. Aggravated robbery is a Class 1 felony.

30 (Source: P.A. 90-593, eff. 1-1-99; 90-735, eff. 8-11-98;  
31 91-357, eff. 7-29-99.)

32 (720 ILCS 5/20-1.1) (from Ch. 38, par. 20-1.1)

33 Sec. 20-1.1. Aggravated Arson.

34 (a) A person commits aggravated arson when in the course of

1 committing arson he or she knowingly damages, partially or  
2 totally, any building or structure, including any adjacent  
3 building or structure, including all or any part of a school  
4 building, house trailer, watercraft, motor vehicle, or  
5 railroad car, and (1) he knows or reasonably should know that  
6 one or more persons are present therein or (2) any person  
7 suffers great bodily harm, or permanent disability or  
8 disfigurement as a result of the fire or explosion or (3) a  
9 fireman, policeman, or correctional officer who is present at  
10 the scene acting in the line of duty is injured as a result of  
11 the fire or explosion. For purposes of this Section, property  
12 "of another" means a building or other property, whether real  
13 or personal, in which a person other than the offender has an  
14 interest that the offender has no authority to defeat or  
15 impair, even though the offender may also have an interest in  
16 the building or property; and "school building" means any  
17 public or private preschool, elementary or secondary school,  
18 community college, college, or university.

19 (a-5) A person commits aggravated arson when he or she  
20 commits an arson and at the time of the commission of the  
21 offense was a gang member.

22 (b) Sentence. Aggravated arson is a Class X felony.

23 (Source: P.A. 93-335, eff. 7-24-03; 94-127, eff. 7-7-05;  
24 94-393, eff. 8-1-05.)